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7

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,	)	No. CR-95-161 MMC
	)	
12 Plaintiff,	)	STIPULATION AND <del>PROPOSED</del>
	)	ORDER TO CORRECT JUDGMENT AND
13 v.	)	COMMITMENT
	)	
14 LENARD POWELL,	)	
	)	
15 Defendant.	)	
	)	
16 _____	)	
	)	

17  
18 On April 1, 2009, Mr. Powell was sentenced to 87 months in custody for three counts of  
19 bank robbery in CR 08-624. He was ordered to pay restitution in the amount of \$8,480.00. On  
20 April 7, 2009, the judgment and commitment for this conviction was filed, and it reflected the  
21 correct restitution amount of \$8,480.00.

22 At the same sentencing hearing, Mr. Powell received a 24 month concurrent sentence for  
23 a supervised release violation in CR 95-161. The original restitution amount in that case was  
24 \$15,804.00. According to the Form 12 for that violation, Mr. Powell's remaining restitution in  
25 that case is \$9,855.30. However, the judgment and commitment erroneously states that Mr.  
26

1 Powell's remaining restitution in that case is \$15,804.00.

2 On April 13, 2009, undersigned counsel spoke with Mr. Powell's supervising probation  
3 officer in his 1995 case, Shaheen Shan, who confirmed that his remaining restitution is  
4 \$9,855.30. Undersigned counsel also spoke with AUSA Jeane Hamilton, who concurs.  
5 Therefore, pursuant to FED. R. CR. P. 35(a), the parties agree that the Court should issue a new  
6 judgment and commitment reflecting that the correct restitution in the 1995 case, CR 95-00161,  
7 is \$9,855.30.

8  
9 IT IS SO STIPULATED.

10 4/13/09

/s/

11  
12 DATED

JEANE HAMILTON  
Assistant United States Attorney

13  
14 4/13/09

/s/

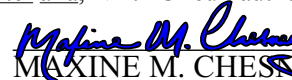
15 DATED

RITA BOSWORTH  
Assistant Federal Public Defender

16 IT IS SO ORDERED, with the exception that the corrected judgment shall be issued to correct a  
17 clerical error, pursuant to Fed. R. Crim. P. 36, see United States v. DeMartino, 112 F.3d 75, 81 (2d Cir. 1997)  
18 (holding Rule 36 applicable to "minor, uncontroversial errors"), rather than Fed. R. Crim. P. 35(a), which, in light of  
the date of the above stipulation, is unavailable, see Fed. R. Crim. P. 35(a), (c) (requiring correction "within 7 days"  
after "oral announcement of the sentence"); United States v. Higgs, 504 F.3d 456, 462 (3d Cir. 2007) (holding Rule  
35(a)'s seven-day limitation "jurisdictional"; citing, inter alia, Ninth Circuit authority in accord).

19 May 13, 2009

20 DATED

  
MAXINE M. CHESNEY  
United States District Judge